IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 17725 of 2007(I)

PETITIONER:

ABDUL MAJEED,
FRIENDS ASSOCIATION, KANDACHIRA,
PERINAD P.O.

BY ADV. SRI.S.ARUN RAJ

RESPONDENTS:
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1. COMMERCIAL TAX OFFICER,
CUM SALES TAX OFFICER, KUNDARA.

2. INTELLIGENCE OFFICE (IB),
KOLLAM.

3. THE DEPUTY COMMISSIONER (APPEALS),
KOLLAM.

4. DEPUTY COMMISSIONER,
COMMERCIAL TAXES, KOLLAM.

5. DEPUTY TAHSILDAR (R.R.),
KOLLAM.

BY G.P. SRI. MOHAMMED RAFFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 17725 OF 2007

Dated this the 11th day of June, 2007

JUDGMENT

Petitioner is challenging interim orders of stay issued by the appellate authority directing payment of fifty per cent as condition for stay against recovery during the pendency of the appeal against assessment and penalty issued for 2004-05. It is seen that broken bronze purchased by the petitioner from the Sabarimala Devaswom during the year was above Rs. 24 lakhs based on which the impugned orders are issued. Even though this Court normally will not interfere with the conditional stay orders, having regard to the contentions raised and the findings recorded, I feel some modification is called for. W.P. is accordingly disposed of modifying Exts.P16 and P17 by directing payment of Rs. 1 lakh in the place of 50 per cent ordered under both the orders granting one month's time to the petitioner to make payment. If Rs. 1 lakh is paid within one month, then recovery of the disputed penalty and balance tax will remain stayed for three months thereafter. The concerned Deputy Commissioner is directed to take up the appeal

and revision and dispose of the same within three months from the date of making payment as above.

(C.N.RAMACHANDRAN NAIR)
Judge